

Deputy Administrator Andrew Wheeler
EPA Region 3 Visit
Roundtable with Senior Management Team
May 31, 2018

Air Protection Division

Ex. 5 Deliberative Process (DP)

Water Protection Division

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Environmental Assessment & Innovation Division

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Ex. 5 Deliberative Process (DP)

Chesapeake Bay Program Office

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Land & Chemicals Division

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Office of Regional Counsel

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Trash TMDL

On March 30, 2018, the U.S. District Court for the District of Columbia granted summary judgment to Plaintiff NRDC and vacated EPA's 2010 approval of a total maximum daily load (TMDL) for trash in the Anacostia River, developed jointly by Maryland the District of Columbia with cooperation from a number of environmental groups (other than NRDC). The district court held that, because the TMDL was expressed as an amount of trash that must be removed or prevented from reaching the river, it was not a "maximum ... load."

Recognizing the TMDL's value as an implementation tool, Judge Bates stayed his order of vacatur until such time as the EPA approves or establishes a replacement TMDL. The court directed EPA to either "cooperate with DOEE and MDE to develop a new TMDL" or "'disapprove' the Trash TMDL and thereby trigger the agency's statutory responsibility to establish a federal TMDL within thirty days." The court did not identify a date certain or a specific set of steps that EPA must take, but did state its expectation that EPA would work "diligently" consistent with the Administrative Procedure Act. The court directed EPA to file a status report no later than July 2, 2018 "informing the Court of the actions that the agency has taken to comply with this Order."

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Region 3 Hallmarks

Air Protection Division

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